



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 13, 1995

Ms. Tracy R. Briggs
Assistant City Attorney
City of Houston
P.O. Box 1562
Houston, Texas 77251-1562

OR95-603

Dear Ms. Briggs:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 33022.

The City of Houston (the "city") received a request for copies of interoffice correspondence from city attorneys to the Assistant Director of the Public Works and Engineering Department. The city claims that the requested correspondence contains attorney advice and opinions as well as client confidences and asserts that the correspondence is excepted from disclosure pursuant to section 552.107 of the Government Code. You have provided copies of the requested documents for our review.

Section 552.107(1) excepts from disclosure

information that the attorney general or an attorney of a political subdivision is prohibited from disclosing because of a duty to the client under the Rules of the State Bar of Texas.

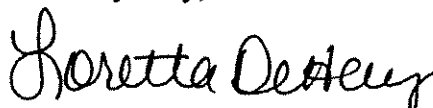
Although section 552.107(1) excepts information within rule 1.05 of the Texas State Bar Disciplinary Rules of Professional Conduct, the rule cannot be applied as broadly as written to information that is requested under the Open Records Act. Open Records Decision No. 574 (1990) at 5. To prevent governmental bodies from circumventing the Open Records Act by transferring information to their attorneys, section 552.107(1) is limited to material within the attorney-client privilege for confidential communications; "unprivileged information" as defined by rule 1.05 is not excepted under section 552.107(1). Open Records Decision Nos. 574 (1990) at 5, 462 (1987) at 13-14

(explaining scope of attorney-client privilege). Furthermore, section 552.107(1) does not protect information not containing legal advice or opinion, or revealing client confidences. Open Records Decision No. 574 (1990) at 3, 5.

Information may be withheld under section 552.107(1) only to the extent that it documents confidences of a governmental representative to its attorney or reveals the attorney's legal advice and opinions. Open Records Decision Nos. 589 (1991), 574 (1990). The information you have marked in the two interoffice memoranda consists of client confidences, client requests for legal advice, and attorney advice and opinion. You may therefore withhold the marked information pursuant to section 552.107 of the Government Code.¹

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Government Section

LRD/LMM/rho

Ref.: ID# 33022

Enclosures: Marked documents

cc: Ms. Ovide Duncantell
Executive Director
Black Heritage Society
4426 Griggs Street
Houston, Texas 77021
(w/o enclosures)

¹The Seventy-fourth Legislature has significantly amended the Open Records Act effective September 1, 1995. See Act of May 29, 1995, H.B. 1718, sec. 17, § 552.272(d), 74th Leg., R.S. (to be codified at Gov't Code Ch. 552) (copies available from House Document Distribution). We do not address in this ruling whether these recent amendments to the Open Records Act will affect requests for this information that are made on or after September 1, 1995.